

3. Third, other providers who are potentially affected must have notice and an opportunity to assess their available options.

4. Fourth, the provider seeking to abandon, to discontinue, or to curtail any service must have adequate notice and sufficient information regarding the information which it must provide and the process by which the Commission will process the provider's request.

5. Fifth, and certainly not least important, the process must be clearly articulated, competitively neutral (e.g., favor neither large nor small providers, favor neither incumbent providers nor new providers), and must not act as a barrier to competition. The rules meet these criteria.

C. Content of Rules⁷

1. The Working Group was able to reach consensus regarding the majority of issues set forth in the rules. The Working Group failed to reach consensus on this point: statements to be made by a provider as part of the application (proposed Rule 4.2.8)⁸ and as part of the notice (proposed Rule 5.2.3).⁹

⁷ We have determined that proposed rule 1: basis, purpose, and statutory authority, is not a rule. Thus, although we retain the statement, it is not numbered as a rule. As a result, the rules we promulgate have been renumbered from the proposed rules. We use the final rule numbers in our discussion, making reference to the proposed rule numbers where necessary for clarity.

⁸ An application is required if a provider proposes to abandon, to discontinue, or to curtail either basic local exchange service or any service required for the provisioning of basic local exchange service. See Rule 3.

⁹ Except as provided in rule 3, a local exchange telecommunications service provider files a notice with the Commission if it proposes to abandon, to discontinue, or to curtail any service. See Rule 4.

2. Consistent with our discussion above concerning "substantial deference," we will make modifications, corrections, and conforming and other changes to the consensus rules which we deem necessary. In addition, where no Working Group consensus was reported, we adopt rules which are, in our opinion, necessary and appropriate to carry out our constitutional and statutory responsibilities.

3. Proposal of the Universities

a. The Universities proposed a new option for Rule 1: Applicability. The Universities argued that the requirements of these rules should not apply to institutions of higher education¹⁰ which own or lease and operate telecommunications systems for the purpose of providing intercommunications within those systems and local exchange access services to administration, faculty, staff, government and/or university-affiliated non-profit corporation employees at their work locations, and to students resident in institution-affiliated housing.

b. The Universities rely on this Commission's April 11, 1984, Decision No. R84-428, in support of their position. In that decision, the Commission determined that the Colorado State University ("CSU") telephone system did not constitute public utility service.¹¹

¹⁰ Section 24-113-102(2), C.R.S. (1988), defines an "institution of higher education" as "a state-supported college, university, or community college."

¹¹ Decision No. R84-428 is expressly limited in its applicability to the telephone system of CSU as described in that decision.

c. In the discussion section of Decision No. C84-428, the administrative law judge stated:

CSU will not serve non-university entities such as the three private businesses located on campus or the Federal government agencies. Mountain Bell will continue to serve these businesses and agencies. CSU, by providing private service as above described, is not a public utility since it is not offering service to the general public indiscriminately.

* * *

The next question presented in this case is whether CSU, by its proposed telephone system, is a reseller of telephone service.

* * *

The Commission has . . . in Decisions No. C82-1928 and C82-1925 defined "resale" as an entity charging more or less than the certificated supplier of utility service. The proposed CSU service does not constitute resale under the above definitions since CSU will not increase or reduce the cost of service. Consequently, CSU will not be a reseller of intrastate telecommunications services.

Decision No. R84-428 at 5.

d. Clearly, with the advent of HB 1335, the local exchange telecommunications service market in Colorado has changed radically. For example, in Docket No. 95R-557T, *In the Matter of Proposed Rules Regarding Implementation of §§ 40-15-101, et seq. -- Resale of Regulated Telecommunications Services*, there are proposals to change the definition of "resale" that the Commission adopted in 1982. Further, HB 1335 speaks in terms of "multiple providers of local exchange service"¹² and clearly contemplates that all local exchange service providers need not be designated by

¹² Section 40-15-501(3)(c), C.R.S.

the Commission as providers of last resort.¹³ The obligation of a local exchange service provider to serve all members of the public indiscriminately, and thus its status as a public utility as defined in Decision No. R84-428, has clearly been affected by the enactment of HB 1335.

e. For the purpose of this rulemaking proceeding, we reject the argument of the Universities that institutions of higher learning should be exempted from the application of these rules. In light of the evolving responsibilities of local exchange service providers under HB 1335,¹⁴ the broad statutory definition of "public utility" found at § 40-1-103, C.R.S.,¹⁵ and the inclusive definition of "person" found at § 40-1-102(5), C.R.S.,¹⁶ we find that the record in this proceeding does not support the adoption of the Universities' proposed language.

f. We also find that the Universities' proposed language may create an exemption from the application of these

¹³ Section 40-15-502(6), C.R.S.

¹⁴ "Wise public policy relating to the telecommunications industry and the other crucial services it provides is in the interest of Colorado and its citizens[.]" Section 40-15-501(2)(a), C.R.S.

"A provider that offers basic local exchange service through use of its own facilities or on a resale basis may be qualified as a provider of last resort. . . . Resale shall be made available on a nondiscriminatory basis[.]" Section 40-15-502(5)(b), C.R.S.

¹⁵ As relevant here, this section defines a "public utility" as "every common carrier, . . . telephone corporation, telegraph corporation, . . . person, or municipality operating for the purpose of supplying the public for domestic, mechanical, or public uses and every corporation, or person declared by law to be affected with a public interest[.]" This definition is subject to exemptions found in § 40-1-103(1)(b).

¹⁶ This section defines "person" as "any individual, firm, partnership, corporation, company, association, joint stock association, and other legal entity."

rules that is overly broad. We believe that the issue raised by the Universities is more appropriately considered in an adjudicatory proceeding where the specific facts pertaining to those entities can be addressed.

4. Rule 2

a. This rule contains the definitions applicable to these rules. The Commission has modified the consensus rule to add a statement that the statutory definitions are applicable and controlling. The addition of this language places interested persons on notice that they must refer to the statute to be sure that they understand the definitions of words and phrases used in the rules. This is the same procedure that utilities and other interested persons should follow in any situation involving Commission rules.

b. By Rule 2.3, the Commission added a definition of "certificate of public convenience and necessity." The term "certificate of public convenience and necessity," although used in the consensus rule, was not defined. The Commission added this definition for clarity.

5. Rule 3

a. This rule describes the required contents of an application to abandon, to discontinue, or to curtail basic local exchange service. At a minimum, this rule serves the following important functions: informs applicants of the data they must provide; informs applicants of the notice they must provide; provides notice to applicants of the possible consequences of

submitting an application which contains false information or misrepresentations; and informs applicants of the process under which their proposals will be handled.

b. The suggestion was made that the Commission incorporate a definition of "basic local exchange service" or "basic service" in these rules for clarity. The Commission does not adopt this suggestion. The phrase "basic local exchange service" or "basic service" is defined in § 40-15-102(3), C.R.S. (1995 Supp.). Repetition of the definition in the rules is unwarranted. Interested persons are on notice that they must refer to, and incorporate, statutory definitions when applying this -- or any other -- Commission rule.

c. The Commission clarified and modified consensus language in Rule 3 by adding a new Rule 3.1 to inform a provider which has been designated as a provider of last resort that it must supplement its application in accordance with Commission rules relating to universal service and the Colorado High Cost Fund. We believe this makes the application process easier to understand. In addition, it notifies an applicant of the supplemental data it must provide if it has been designated as a provider of last resort.

d. The Commission added a new Rule 3.2.1, which requires that the application contain the applicant's name, address, and other identifying information. Although the consensus rule contained no such provision, it is obviously information which the Commission and those potentially affected by the proposed

abandonment, discontinuance, or curtailment need to know. In addition, providing this identifying information will not be burdensome on an applicant while the absence of such information could prove to be harmful to the public interest.

e. Rule 3.2.8 (proposed Rule 4.2.8) was not a consensus rule. The parties agreed that an applicant must be on notice that, upon Commission order, an order granting discontinuance, curtailment, or abandonment may be null and void if the information contained in the application is found to be false or to contain misrepresentations. The parties also agreed that an applicant should be on notice that the Commission might take action, but, in accordance with due process requirements, can do so only after notice and opportunity to be heard.

f. We agree that Rule 3.2.8 is an important notice provision. We also agree that we can take action only in accordance with the law, which necessarily includes notice and opportunity for the provider to be heard. The provider should be given the opportunity to be heard at least on the issues of (a) whether or not the information contained in the application is false or contains a misrepresentation and, if so, (b) the action, if any, which the Commission should take as a result. Rule 3.2.8 is consistent with, and furthers, these principles.

g. The parties could not agree whether or not the misrepresentations should be "material." We determine that Rule 3.2.8 should not contain the word "material."

(1) First, absent a definition of "material" (which the parties did not supply), use of that modifier could produce confusion and uncertainty on the part of a provider. Similarly, use of the word "material" complicates enforcement of this rule and could prove to be fertile ground for litigation if the Commission and a provider do not share a common understanding of the word "material" as used in this context. The absence of the word "material" eliminates these potential difficulties.

(2) Second, and equally important, the absence of the word "material" from Rule 3.2.8 is beneficial. It puts a provider clearly and unequivocally on notice that compliance with the statutes, rules, and orders is obligatory for those who wish to do business in this state. Obviously, this requirement does not limit the Commission's discretion to equitably evaluate each provider's circumstances to reach a reasonable and balanced result.

(3) On balance, we find that use of the word "material" is counter-productive. Accordingly, for the reasons stated, among others, we issue Rule 3.2.8 without the word "material."

h. The Commission added a new Rule 3.5. This rule directs interested persons to Rule 5, the rule pertaining to processing of applications. Rule 3.5 was added for clarity, ease of reference, and completeness.

6. Rule 4

a. This rule describes the required contents of a notice of proposed abandonment, discontinuance, or curtailment of

a local exchange telecommunications service other than basic local exchange service. It also describes the process by which such a notice will be handled.

b. The Commission added a new Rule 4.2.1, which requires that the notice contain the provider's name, address, and other identifying information. Although consensus rule contained no such provision, it is obviously information which the Commission and those potentially affected by the proposed abandonment, discontinuance, or curtailment need to know. In addition, providing this identifying information will not be burdensome on a provider while the absence of such information could prove to be harmful to the public interest.

c. For the reasons discussed above, we have reworded Rule 4.2.4 (proposed Rule 5.2.3) to make it consistent with Rule 3.2.8. In addition, we have added language to Rule 4.2.3 (proposed Rule 5.2.3) to make it consistent with Rule 3.2.6. In our opinion, it is important that the provider giving notice clearly understand that: (a) the mere provision of adequate notice of intent to abandon, to discontinue, or to curtail does not, in and of itself, constitute authority to do so; and (b) it cannot abandon, discontinue, or curtail any service unless and until all Commission-ordered requirements are satisfied. As reworded, Rule 4.2.3 is clear and unequivocal on these points.

d. The Commission has reworked consensus Rule 4.3.2 (proposed Rule 5.3.2), which delineates the requirements for notice to affected customers. As rewritten, the requirements contained in

Rule 4.3.2 are identical to those found in Rule 3.3.2. Rule 4 governs the situation in which a local exchange telecommunications service, other than basic local exchange service, is to be abandoned, discontinued, or curtailed. Under Rule 4, no application need be filed; instead, only a notice of intent is required to be filed. The timeframes within which to take action with respect to the notice of intent are short, yet the consensus rule did not require sufficient notice to affected customers. For the following reasons, among others, we have changed the notice requirement by specifying a larger group of persons which must receive notice.

e. Consumer protection is of importance to us. As Colorado proceeds through the transition to a fully-competitive telecommunications environment, we cannot and will not sacrifice customers. We are mindful of, and give substance to, the legislatively-declared public policies of increasing the choices available to customers, increasing access to advanced services, reducing the costs of telecommunications service, and maintaining the availability of high quality telecommunications service. However, to the extent possible within the statutory scheme, the legislature clearly intended for the Commission to continue its efforts to protect end-use customers and to give them information sufficient to enable them to exercise their available options.

f. With the advent of competition in the local exchange telecommunications market, we recognize that the Commission is no longer in the same position to protect consumers

and to ensure that telecommunications service providers will continue to provide quality service. It is possible some consumers may be harmed by certificated providers who abandon their customers and who take money for services which they then do not provide. However, the fact that the Commission's authority to protect consumers is modified does not mean that it has been eliminated. In fact, there are many who believe that the Commission's oversight and protective responsibilities will be even more important as an increasing number of unknown market operators seek Colorado dollars. Providing for notice to affected consumers and their elected representatives is one way to enhance customer protection.

g. Rule 4.4 (proposed Rule 5.4), as adopted, changes the consensus rule. As proposed, the rule provided only two bases for the Commission's setting for hearing a notice of abandonment, discontinuance, or curtailment: a complaint or a Commission show cause proceeding. The Commission finds this restriction to be contrary to the public interest. As a result, for the following reasons among others, the Commission expands the bases upon which it may set a notice for hearing. The rule now contains three bases for setting a notice for hearing (i.e., receipt of a protest and request for hearing, incomplete notice, and Commission determination that an investigation is warranted), although nothing in the rule requires that a notice be set for hearing. The rule assures that interested members of the public will have a reasonable opportunity to request a hearing but retains the Commission's discretion to decide whether or not to set a

notice for hearing. In addition, the rule allows for a Commission investigation of the proposed abandonment, discontinuance, or curtailment and does not restrict that investigation to a show cause context. Further, the rule is clear that the Commission may set a notice for hearing on its own motion. Thus, as worded, Rule 4.4 puts a provider on notice of the circumstances under which a notice may be set for hearing and retains the Commission's discretion to act as it thinks best in the public interest.

h. An additional issue raised by the proposed rule caused concern to the Commission. As proposed, the rule stated that the Commission could set a notice for hearing only if a complaint were filed or if a notice of intention to file a show cause were issued. In either event, the burden of proof would fall on the challenging party to establish a negative (i.e., that the noticed abandonment, discontinuance, or curtailment should not go forward). The Commission does not adopt this burden shifting which is inherent in the consensus rule provision. First, there was no little or no reason or justification provided with respect to this shifting of the burden of proof. Second, we believe the challenging party would be unfairly disadvantaged by having to prove a negative, particularly where (as here) the data are in the possession of the provider. Third, by providing that a notice of intention to file a show cause was a necessary precondition to setting the notice for hearing, the proposed rule eliminated, or severely limited, the Commission's ability to investigate a notice. For these reasons, among others, the proposed rule did not serve

the public interest. The Commission, therefore, substitutes rule 4.4, which preserves the Commission's options, contains none of the disadvantages discussed here, and serves the public interest.

i. The Commission made additional modifications to Rule 4.4. Among other things, the rule now sets out the procedure to be followed in the event a notice is incomplete, provides a mechanism for a provider to correct deficiencies in its notice, and puts the provider on notice that its notice will be rejected if the deficiencies are not corrected. Rule 4.4 describes limitations on the ability of the person giving the notice to abandon, to discontinue, or to curtail certain telecommunications service. It is important to provide a clear procedure in order to give the provider an element of certainty. Rule 4.4 achieves this goal.

j. Rule 4.5 was modified to be consistent with, and to parallel, the changes made in Rule 4.4. In addition, Rule 4.5 is more precise with respect to the effective date of the notice of abandonment, discontinuance, or curtailment than was the proposed rule. This should reduce the possibility of misunderstanding or confusion with respect to when a notice becomes effective.

D. Adoption of Rules

1. We are convinced that these rules regulating proposals by local exchange telecommunications providers to abandon, to discontinue, or to curtail any local exchange telecommunications service are essential to achieving the goals of

HB 1335 in an orderly and timely fashion. The rules appended to this Decision as Attachment A are appropriate for adoption.

ORDER

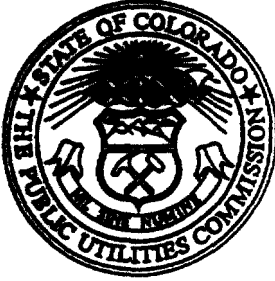
A. The Commission Orders That:

1. The rules set forth in Attachment A are adopted.
2. This Order adopting the attached rules shall become effective 20 days following the Mailed Date of this Decision in the absence of filing of an application for rehearing, reargument, or reconsideration. In the event an application for rehearing, reargument, or reconsideration to this decision is timely filed, and in the absence of further order of this Commission, this Order of adoption shall become final upon a Commission ruling denying any such application.
3. Within 20 days of final Commission action on the attached rules, the adopted rules shall be filed with the Secretary of State for publication in the next issue of the *Colorado Register* along with the opinion of the Colorado Attorney General regarding the legality of the rules.
4. The adopted rules shall also be filed with the Office of Legislative Legal Services within 20 days following the above-referenced opinion of the Colorado Attorney General.
5. The 20-day period provided for in § 40-6-114(1), C.R.S., with which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Order.

6. This order is effective on its Mailed Date.

B. ADOPTED IN OPEN MEETING March 7, 1996.

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT J. HIX

CHRISTINE E. M. ALVAREZ

VINCENT MAJKOWSKI

Commissioners

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "Bruce N. Smith".

Bruce N. Smith
Director

**THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO**

**RULES REGULATING PROPOSALS
BY LOCAL EXCHANGE TELECOMMUNICATIONS PROVIDERS
TO ABANDON, TO DISCONTINUE, OR
TO CURTAIL ANY SERVICE**

4 CCR 723-36

BASIS, PURPOSE AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to establish regulations regarding proposals by local exchange telecommunications providers to abandon, to discontinue, or to curtail any local exchange telecommunications service.

These rules are clear and simple and can be understood by persons expected to comply with them. They do not conflict with any other provision of law, and there are no duplicating or overlapping rules.

These rules are issued pursuant to § 40-2-108 and § 40-15-503(2), C.R.S.

RULE 4 CCR 723-36-1. APPLICABILITY. These rules are applicable to all local exchange telecommunications service providers.

RULE 4 CCR 723-36-2. DEFINITIONS. The meaning of terms used in these rules shall be consistent with their general usage in the telecommunications industry unless specifically defined by Colorado statute or this rule. In addition to the definitions in this section, the statutory definitions apply. In the event the general usage of terms in the telecommunications industry or the definitions in this rule conflict with statutory definitions, the statutory definitions control. As used in these rules, unless the context indicates otherwise, the following definitions apply:

723-36-2.1 Applicant. Any person filing an application with the Commission pursuant to these rules.

723-36-2.2 Application. A formal filing with the Commission which contains a request to abandon, to discontinue, or to curtail any service.

723-36-2.3 Certificate of public convenience and necessity or CPCN. Commission-granted authority, subject to such terms and conditions as the Commission may establish, to provide the local exchange telecommunications services specifically identified and approved by the Commission; consists of a certificate to provide local exchange telecommunications services and an operating authority to offer service within specific operating area or areas.

723-36-2.4 Certificate to provide local exchange telecommunications services or certificate. Commission-granted authority to offer local exchange telecommunications services in the state of Colorado; the first of two prerequisites to obtaining a certificate of public convenience and necessity.

723-36-2.5 Commission. The Public Utilities Commission of the state of Colorado.

723-36-2.6 Local exchange telecommunications service or service. Basic local exchange service and other services identified in § 40-15-201, C.R.S., or defined by the Commission pursuant to § 40-15-502(2), C.R.S.; regulated advanced features, premium services, and switched access as defined in § 40-15-301(2)(a), (b), and (e), C.R.S.; or any of the above singly or in combination.

723-36-2.7 Operating area. Specific geographic area in which a provider of local exchange telecommunications services is authorized by the Commission to exercise the rights and privileges granted pursuant to a certificate of public convenience and necessity.

723-36-2.8 Operating authority. Commission-granted authority to offer local exchange telecommunications services within an operating area; the second and last prerequisite to obtaining a certificate of public convenience and necessity.

723-36-2.9 Provider of local exchange telecommunications services or provider. Person who holds a certificate of public convenience and necessity to provide local exchange telecommunications services.

723-36-2.10 Tariff or price list. A document which contains all terms and conditions for all local exchange telecommunications products and services to be offered by a provider.

RULE 4 CCR 723-36-3. APPLICATIONS TO ABANDON, TO DISCONTINUE, OR TO CURTAIL BASIC LOCAL EXCHANGE SERVICE. To abandon, to discontinue, or to curtail basic local exchange service or any service required for the provisioning of basic local exchange service, a provider shall file an application with the Commission not less than 30 days before the effective date of the proposed abandonment, discontinuance, or curtailment.

723-36-3.1 Provider of last resort. If the applicant has been designated as a provider of last resort, it must supplement its application by providing the information required by the Commission's rules relating to universal service and the Colorado High Cost Fund.

723-36-3.2 Contents of application. The application shall contain, in the following order and specifically identified, the following information, either in the application or in appropriately identified, attached exhibits:

723-36-3.2.1 Applicant's name and complete address (street, city, state, and zip code), and the name(s) under which the applicant is providing telecommunications service in Colorado;

723-36-3.2.2 A complete explanation of the proposed abandonment, discontinuance, or curtailment;

723-36-3.2.3 A plan for the transfer of customers to another provider;

723-36-3.2.4 The identity of every known alternative provider, including providers of last resort, ready and willing to serve each of the applicant's customers;

723-36-3.2.5 A statement indicating, if the application is assigned for hearing, the town or city in the operating area affected where the applicant prefers the hearing to be held and any alternative choice;

723-36-3.2.6 A statement that the applicant understands that the filing of the application does not, by itself, constitute authorization to abandon, to discontinue, or to curtail any service;

723-36-3.2.7 A statement that, if an application is granted, the applicant understands that any abandonment, discontinuance, or curtailment is conditional upon fulfillment of any conditions established by Commission order; and a statement that the applicant shall not abandon, discontinue, or curtail any service or product unless and until a Commission decision granting the application is issued and all conditions or requirements stated in such decision and order are satisfied;

723-36-3.2.8 A statement that the applicant understands that, if the contents of the application are found to be false or to contain misrepresentations, any order granting abandonment, discontinuance, or curtailment may be, upon Commission order, null and void; and

723-36-3.2.9 An affidavit signed by an officer, a partner, an owner, or an employee, as appropriate, who is authorized to act on behalf of the applicant, stating that the contents of the application are true, accurate, and correct.

723-36-3.3 Notice of application to be provided to customers. The applicant shall provide notice of the application as follows:

723-36-3.3.1 If there are no customers affected by the proposed abandonment, discontinuance, or curtailment, no notice under this rule is required.

723-36-3.3.2 If there are customers affected by the proposed abandonment, discontinuance, or curtailment, the applicant shall prepare a written notice stating the proposed abandonment, discontinuance, or curtailment and its proposed effective date. At least 30 days before the effective date of the proposed abandonment, discontinuance, or curtailment, the applicant shall mail or deliver the notice to each of the applicant's affected customers; to the board of county commissioners of each affected county; and to the mayor of each affected city, town, or municipality. In the notice, the applicant shall explain clearly and specifically its plan for the transfer of customers to another provider and shall list each alternative provider regulated by the Commission, including providers of last resort, ready and willing to serve each customer.

723-36-3.3.3 The notice required by this rule shall be in the form attached to these rules as Form A or as ordered by the Commission.

723-36-3.3.4 When notice is required under this rule, the applicant shall, not less than 15 days before the date of the proposed abandonment, discontinuance, or curtailment, file with the Commission an affidavit stating its compliance with this rule. The affidavit shall state the date on which notice was completed and the method used to give notice. A sample copy of each form of notice given shall accompany the affidavit.

723-36-3.4 Application contested. An application shall be deemed contested in the following circumstances:

723-36-3.4.1 If there are no customers affected by the proposed abandonment, discontinuance, or curtailment, the application will be deemed contested if the Commission receives an intervention of right filed pursuant to the Rules of Practice and Procedure.

723-36-3.4.2 If there are customers affected by the proposed abandonment, discontinuance, or curtailment, the application will be deemed contested if the Commission receives an intervention of right or grants a petition for permissive intervention pursuant to the Rules of Practice and Procedure.

723-36-3.4.3 The Commission may deem the application contested on its own motion whether or not an intervention or petition to intervene is received.

723-36-3.4.4 For good cause shown, the Commission may waive the deadline for interventions or petitions to intervene.

723-36-3.5 Manner of processing. The Commission shall process an application filed pursuant to this rule in accordance with the Rule 5.

RULE 4 CCR 723-36-4. NOTICE OF ABANDONMENT, DISCONTINUANCE, OR CURTAILMENT OF ANY OTHER LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE. This rule applies to abandonment, discontinuance, or curtailment of any local exchange telecommunications service other than basic local exchange service (see Rule 3).

723-36-4.1 If a provider proposes to abandon, to discontinue, or to curtail any local exchange telecommunications

service to which this rule applies, the provider shall file a notice with the Commission.

723-36-4.2 Contents of notice. The notice shall contain, in the following order and specifically identified, the following information, either in the notice or in appropriately identified, attached exhibits:

723-36-4.2.1 Provider's name and complete address (street, city, state, and zip code), and the name under which the provider is providing telecommunications service in Colorado;

723-36-4.2.2 A complete explanation of the proposed abandonment, discontinuance, or curtailment, with a proposed effective date which shall be not sooner than 30 days after the date on which the provider files its notice with the Commission;

723-36-4.2.3 A statement that the provider understands that the filing of the notice does not, by itself, constitute authority to abandon, to discontinue, or to curtail service and that the provider shall not abandon, discontinue, or curtail service unless and until all Commission-ordered requirements are satisfied;

723-36-4.2.4 A statement that the provider understands that, if the contents of the notice are found to be false or to contain misrepresentations, any order granting abandonment, discontinuance, or curtailment may be, upon Commission order, null and void; and

723-36-4.2.5 An affidavit signed by an officer, a partner, an owner, or an employee, as appropriate, who is authorized to act on behalf of the provider, stating that the contents of the notice are true, accurate, and correct.

723-36-4.3 Notice to be provided to customers. The provider shall provide notice as follows:

723-36-4.3.1 If there are no customers affected by the proposed abandonment, discontinuance, or curtailment, no notice under this rule is required.

723-36-4.3.2 If there are customers affected by the proposed abandonment, discontinuance, or curtailment, the provider shall prepare a written notice stating the proposed abandonment, discontinuance, or curtailment and its proposed effective date. At least 30 days before the effective date of the proposed abandonment, discontinuance, or curtailment, the provider shall mail or deliver the notice to each of the provider's affected customers; to the board of county commissioners of each affected county; and to the mayor of each affected city, town, or municipality. In the notice, the provider shall explain clearly and specifically its plan for the transfer of customers to another provider and shall list each alternative provider regulated by the Commission, including providers of last resort, ready and willing to serve each customer.

723-36-4.3.3 The notice required by this rule shall be in the form attached to these rules as Form B or as prescribed by the Commission.

723-36-4.3.4 When notice is required, the provider shall, not less than 15 days before the date of the proposed abandonment, discontinuance, or curtailment, file with the Commission an affidavit stating its compliance with this rule. The affidavit shall state the date on which notice was completed

and the method used to give notice. A sample copy of each form of notice given shall accompany the affidavit.

723-36-4.4 Notice set for hearing. During the period between the filing of the notice and its proposed effective date, the Commission will review the submitted notice and supporting information and documentation. The Commission may issue a decision which suspends and sets for hearing any notice under the following conditions: (a) if a protest and request for hearing is filed with the Commission regarding the provider's proposed abandonment, discontinuance, or curtailment; (b) if the Commission determines that there should be investigation into the proposed abandonment, discontinuance, or curtailment; or (c) if the notice is incomplete.

723-36-4.4.1 If the notice is incomplete, the Commission or its staff will notify the provider, in writing and within ten days of the filing of the notice, of the incompleteness of, and the deficiencies in, the notice. The timeframes specified in rule 4.5 shall be suspended from the date of notification to the provider that the notice is incomplete and has deficiencies. The timeframes specified in rule 4.5 shall recommence only upon written notification to the provider by the Commission that the notice is complete and the deficiencies have been cured. If the deficiencies are not cured within 30 days of the original filing of the notice, the notice shall be rejected and the docket closed.

723-36-4.4.2 The procedural requirements of 4 CCR 723-1 and the time limits set for issuance of Commission decisions specified in § 40-6-109.5, C.R.S., shall govern hearings under this rule.